

Decision No. C11-0442

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 10A-554EG

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF A NUMBER OF STRATEGIC ISSUES RELATING TO ITS DSM PLAN, INCLUDING LONG-TERM ELECTRIC ENERGY SAVINGS GOALS, AND INCENTIVES.

**ORDER GRANTING APPLICATION
WITH MODIFICATIONS**

Mailed Date: April 26, 2011
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I. BY THE COMMISSION

A. Statement

1. On August 10, 2010, Public Service Company of Colorado (Public Service or the Company) filed a Verified Application for Approval of a Number of Strategic Issues Relating to Its DSM Plan, Including Long-Term Electric Energy Savings Goals and Incentives (Application). The Application was accompanied by pre-filed Direct Testimony of three witnesses.

2. Public Service proposes in the Application, new electric energy savings goals that are approximately 6.5 percent higher in terms of GWh savings as compared to the goals established in Docket No. 07A-420E. The new proposed goals would cover each year through 2020. Public Service also proposes a new incentive mechanism for electric demand side management (DSM) that entails both the direct recovery of calculated lost margins¹ attributed to its DSM activities and a performance-based share of the projected net economic benefits² of the installed DSM measures. In addition, Public Service further proposes an incentive for increased load participating in the Company's tariff-based Interruptible Service Option Credit (ISOC) program equal to 5 percent of the net present value of the ISOC credits paid to the new participating load.

3. Public Service also seeks various other changes related to its gas and electric DSM programs, including: an increase in the non-energy benefits adder that is applicable to low-income programs; guidance regarding various DSM program concepts; and claims on "influenced savings" associated with customers who complete certain custom projects but who ultimately did not qualify for rebates. With respect to program administration, Public Service wants to continue under the general framework established by the Settlement Agreement approved in Docket No. 08A-366EG concerning the Company's 2009-2010 DSM Plan.

¹ Public Service defines lost margins as the product of the reduction in billing determinants resulting from the implementation of the Company's DSM efforts and the difference between the base rates charged to customer classes less the variable operations and maintenance (O&M) costs included in those base rates. Lost margins may result from declines in revenue due to lower billing determinants applied to energy charges (*e.g.*, Residential class lost margins) or from declines in revenue due to lower billing determinants applied to demand charges (*e.g.*, Transmission General class lost margins).

² Public Service defines net economic benefits as the projected net benefits of a DSM effort over its projected life, minus the costs of the effort to both the participant and to Public Service. Projected gross benefits include avoided private costs to the participant and the utility, avoided emissions costs, and avoided customer O&M costs. A discount rate is applied to the annual streams of gross costs and benefits to derive the net present value of the net economic benefits.

However, the Company also proposes certain modifications to this framework, such as changes in the notice periods related to program modifications and changes in the establishment and frequency of stakeholder meetings (*i.e.*, the Company's quarterly DSM Roundtable).

4. The Commission deemed the Application complete by Decision No. C10-1023, issued on September 16, 2010, and set the matter for hearing before the Commission *en banc*.

5. By Decision No. C10-0906, mailed on August 18, 2010, the Commission granted the Company's Motion for an Alternative Form of Notice.

6. By Decision No. C10-1023, the Commission noted the interventions by right of the Colorado Office of Consumer Counsel (OCC) and granted late intervention to the Colorado Governor's Energy Office (GEO). The Commission also granted the interventions of: the City of Boulder (Boulder); Concord Energy, LLC; Black Hills/Colorado Electric Utility Company LP and Black Hills/Colorado Gas Utility Company, LP (Black Hills);³ Western Resource Advocates; the Energy Efficiency Business Coalition (EEBC); Noble Energy, Inc., Chesapeake Energy Corporation, and EnCana Oil & Gas (USA); Colorado Energy Consumers Group (CEC); Energy Outreach Colorado (EOC); the Southwest Energy Efficiency Project (SWEEP); Wal-Mart Stores, Inc. and Sam's West, Inc. (Wal-Mart); and CF&I Steel, L.P. and Climax Molybdenum Company, jointly (CF&I/Climax). By Decision No. C10-1023, the Commission granted late intervention to the Colorado Solar Energy Industry Association (CoSEIA).

7. Trial Staff of the Colorado Public Utilities Commission (Staff) filed a notice of intervention by right on September 17, 2010.

³ Black Hills filed a motion to withdraw its intervention on March 4, 2011 stating that it no longer has a substantial interest in this Docket. We find good cause to grant Black Hills' motion.

8. At a pre-hearing conference convened on October 12, 2010, the Commission established a schedule for the proceeding. In accordance with that schedule, pre-filed answer testimony was filed on December 17, 2010 by Staff, the OCC, the GEO, SWEEP, CF&I/Climax, CEC, Wal-Mart, and EEBC. Public Service timely filed rebuttal testimony on February 4, 2011. Likewise, SWEEP, CF&I/Climax, CEC, Wal-Mart, and EOC timely submitted pre-filed Cross-Answer Testimony on February 4, 2011.

9. Hearings on the Application were held February 28 and March 1 and 2, 2011.

10. Statements of Position were filed by Public Service, Staff, the OCC, SWEEP, CF&I/Climax, CEC, and Wal-Mart on March 14, 2011. Statements of Position were also filed by the GEO and Boulder on March 14, 2011.⁴ CoSEIA filed a Statement of Position on March 14, 2011 and a Corrected Statement of Position on March 15, 2011.⁵

11. Based on the record established for this proceeding, we issue this Order granting the Company's Application with modifications, as discussed below.

B. Commission DSM Policies and Practices for Public Service

12. Public Service substantially expanded its electric and gas DSM efforts beginning in 2007 as a result of the passage and signing of House Bill (HB) 07-1037, codified primarily in §§ 40-1-102(5)-(8), 40-3.2-103, and 40-3.2-104, C.R.S. The Commission's policies and practices with respect to the Company's DSM activities evolved through several proceedings also beginning in 2007.

⁴ Both the GEO and Boulder filed a Motion for Extension of Time to File Statement of Position on March 14, 2011 because these filings were posted into the Commission's e-filing system after the noon deadline on that day. We find good cause to grant these motions.

⁵ CoSEIA filed a Motion for Extension of Time to File Statement of Position on March 15, 2011. We find good cause to grant this motion.

13. For electric DSM, the Commission's policy development work for Public Service started with Docket No. 07A-420E in which we first established electric energy savings and peak demand reduction goals under § 40-3.2-104(2), C.R.S. While our final decision in that proceeding instituted goals for the Company that are considerably higher than the minimums required by HB 07-1037, it also set forth our general guidelines for considering changes to those goals in future dockets. For instance, in Docket No. 07A-447E concerning the Company's 2007 Electric Resource Plan (ERP), we determined that goal setting in the context of a "strategic issues docket" such as this Docket is different from the level of savings to be acquired in the context of resource planning. We further found that achievement of 130 percent of the savings goals established in Docket No. 07A-420E is the "expected level of actual DSM performance" for resource planning purposes. Decision No. C09-1257 in Docket No. 07A-447E, issued November 6, 2009, at 16-17.⁶

14. Our policies and practices for Public Service's electric DSM efforts thus culminated in our expectation that the Company "aggressively pursue all cost-effective DSM."⁷ Decision No. C08-0560 in Docket No. 07A-420E, issued June 5, 2008, at 33. As such, we directed Public Service to convey to ratepayers that: (1) DSM is a resource; (2) DSM is a more cost effective resource than new generation resources; and (3) DSM costs incurred today are an

⁶ In our recent ERP rulemaking, Docket No. 10R-214E, we clarified that the scenarios the Commission would consider in an ERP proceeding would explore whether a resource plan should include additional demand-side resources. Already acquired demand-side resources would also be evaluated as "existing resources" in the utility's determination of future resource needs. Docket No. 10R-214E, Decision Nos. C10-0347, mailed April 15, 2010 at 10 and 14-16, and C10-0958, mailed August 31, 2010, at 9-10, 17 and 20.

⁷ The cost-effectiveness of DSM is defined at § 40-1-102(5)(a), C.R.S., which states that "cost effective" means "having a benefit-cost ratio greater than one." The benefits in this equation include, but are not limited to, avoided utility costs, avoided emissions, and non-energy benefits as determined by the Commission. The costs include, but are not limited to: program design, administration, evaluation, advertising and promotion costs; customer education costs; incentives and discounts; capital costs, and operation and maintenance expenses. Based on these statutory requirements, our standard for cost effectiveness is therefore encapsulated in the modified total resource cost (TRC) test, or the modified TRC test, as is commonly applied in the regulation of utility DSM. Decision No. C08-0560, at 24-27.

investment that defers higher costs of new generating equipment. Decision No. C08-0560, at 45. Furthermore, we established that all of the Company's electric customers need to be provided a reasonable opportunity to participate in DSM. Decision No. C08-0560, at 46.

15. For gas DSM, our policies and practices evolved along a different path, because § 40-3.2-103, C.R.S., directed the Commission to commence a rulemaking for utility-sponsored programs for natural gas. We established our Gas DSM rules, as set forth in the Rules Regulating Gas Utilities and Pipeline Operations, 4 *Code of Colorado Regulations* (CCR) 723-4-4750, *et seq.*, by Decision Nos. C08-0248 mailed March 7, 2008, and C08-0425 mailed April 22, 2008, in Docket No. 07R-371G. Because a rulemaking proceeding results in policies that apply to all rate-regulated gas utilities, Docket No. 07R-371G did not focus exclusively on Public Service. The establishment of gas savings goals for the Company was therefore left to a future proceeding.⁸

C. Electric Energy Savings Goals

16. In Docket No. 07A-420E, we found that a reasonable range for electric DSM performance for Public Service is to achieve a reduction in energy sales equal to half of its projected growth, or 1.15 percent of sales, by 2018. We also established bounds around this measure, extending from at least 0.92 percent of sales (or 80 percent of 1.15 percent of sales) to 1.5 percent of sales (or 130 percent of 1.15 percent of sales). We then applied this range to establish energy savings goals for each year from 2009 to 2020, extending from 150 GWh saved in 2009 to 422 GWh saved in 2020. Decision No. C08-0560, at 18-19.

⁸ The Commission established gas savings goals for Public Service for 2009, 2010, and 2011 in Docket Nos. 08A-388EG and 10A-471EG.

17. By the Application, Public Service proposes modest increases to these electric energy savings goals based on the results of its 2009 DSM Market Potential Study.⁹ The proposed increases are substantially higher than the goals initially proposed by the Company in Docket No. 07A-420E; however, they are less than the level of electric energy savings the Commission has stated it expects the Company to achieve pursuant to the Company's 2007 ERP. Decision No. C09-1257, at 16.

18. In sum, Public Service is proposing overall electric energy savings of 3,766 GWh from 2010 through 2020 at an average annual cost of \$118 million, with an accelerated ramp up to 1.2 percent of sales as early as 2015. According to Public Service, its proposed goals correspond to approximately 60 percent of the economic potential quantified in the 2009 DSM Market Potential Study. That estimate of economic potential represents a "base assessment" of measures and processes that are commercially available with proven savings and customer acceptance.

19. Staff recommends that when establishing electric DSM goals for Public Service, the Commission should consider factors other than just the results of the 2009 DSM Market Potential Study. Such factors include the Company's past performance and the Commission's opportunity to revisit goals in a future docket like this one. Along these lines, Staff concludes that the Company's proposed electric DSM goals are reasonable and should be approved. The GEO likewise supports the Company's proposal to increase its electric energy savings goals.

20. In contrast, SWEEP recommends that the Commission increase the Company's electric energy savings goals well above the levels proposed by Public Service. Specifically,

⁹ Public Service commissioned this updated market potential study pursuant to ¶¶ 85-87 of Decision No. C08-0560.

SWEEP supports goals that are about 130 percent of the goals now in place.¹⁰ SWEEP argues that if one considers adding just 25 percent of the economic potential of emerging technologies as quantified in the 2009 DSM Market Potential Study, the additional savings would be more than half of the difference between the goals proposed by SWEEP and those goals proposed by the Company. SWEEP further suggests that the difference between its proposed goals and the Company's proposed goals can be addressed with new, non-traditional programs already being contemplated by the Company, such as behavioral change programs, building codes and standards programs, waste-heat recovery projects, and distribution system efficiency improvements. Finally, SWEEP argues that Public Service has overstated the costs of meeting these higher goals, arguing that emerging technologies will eventually lower the costs of meeting any proposed savings goals.

21. The Commission also notes Public Service witness Deb Sundin further explained in testimony that, although the Company based its proposed electric energy savings goals on what the Company concludes is an aggressive pursuit of the market potential quantified in the 2009 DSM Market Potential Study, the Company was also exploring a variety of non-traditional DSM programs as a means to bridge a portion of the gap between the Company's proposed goals and a scenario where the Commission set goals in this Docket at 130 percent of the goals established in Docket No. 07A-420E. Public Service contemplates behavior change programs and certain market transformation activities, such as contractor-focused programs and codes and

¹⁰ SWEEP does not specifically propose a uniform increase of 130 percent to the annual electric energy savings goals we established in Docket No. 07A-420E. SWEEP instead proposes annual goals with greater than 130 percent increases in early years and less than a 130 percent increase in later years.

standards activities, as well as a Company-oriented program intended to capture efficiencies in its own plant and operations.

22. We address market transformation activities and non-traditional DSM programs elsewhere in this Decision. While we stop short at this time of endorsing any of the program concepts that Public Service raised in this proceeding, we recognize that the Company may need to pursue the introduction of such programs in the future in order to meet or to exceed the new electric energy savings targets we establish here. We also reaffirm our general support for market transformation efforts and maintain our preference that market transformation activities continue to be included in the Company's DSM portfolios in accordance with approved biennial DSM plans.

23. Given an expectation that Public Service can reasonably reach higher energy savings targets in the near term by pursuing the DSM measures and activities that form the "base assessment" of economic potential in the 2009 DSM Market Potential Study, and assuming that the Company successfully implements new market transformation programs and other non-traditional programs whose savings can be measured and credited to the Company's efforts to meet longer-term targets, we establish electric energy savings goals for Public Service from 2012 through 2020 that are approximately 130 percent of the annual electric energy savings goals we approved in Docket No. 07A-420E. These higher goals, as set forth in the table below, are consistent with SWEEP's observation that Public Service's proposed goals lack reasonable confidence in the savings potential of emerging technologies and in the savings potential of new types of DSM programs.

Year	% Sales Reduced	GWh Saved
2012	1.14%	330
2013	1.21%	356
2014	1.28%	384
2015	1.35%	411
2016	1.42%	441
2017	1.51%	472
2018	1.59%	504
2019	1.66%	537
2020	1.68%	549
Total		3,984

24. We conclude that for 2012 and 2013, annual electric energy savings goals of 330 MW and 356 MW, respectively, are properly ambitious yet realistically achievable. We similarly conclude that for the period 2012 to 2020, 3,984 GWh of savings is an appropriate electric energy savings goal.

25. In accordance with Decision No. C08-0769 in Docket No. 07A-420E, issued July 24, 2008, we acknowledge that the savings goals established for the later years of this period are the most general in nature and the most subject to change with additional experience. We therefore expect that these savings goals will be revisited in a future proceeding to account for variability in market potential, new technologies, avoided costs, and various other factors.

D. Peak Demand Reduction Goals

26. Public Service also requests that the Commission approve revised electric demand reduction goals. The Company explains that these demand reductions are lower than previously anticipated in Docket No. 07A-420E due to a closer match between assumed measures and the associated demand savings. More specifically, it appears that the Company’s earlier demand savings were based on a different mix of electric DSM programs than the Company intended to

actually offer, and that contributions from compact fluorescent lighting (CFL) programs were overestimated. Notably, the demand reduction goals proposed by Public Service consider demand reductions from neither the Company's load management programs (*e.g.*, Savers' Switch) nor its demand-response programs, such as the EnerNOC program and the ISOC program. The proposed demand reduction goals are thus only associated with the Company's energy efficiency efforts.

27. SWEEP recommends that the Commission adopt peak demand reduction goals that include expected savings from the Company's residential load control program as well as from the Company's energy efficiency programs. In general, SWEEP suggests increasing the Company's demand reduction goals by the same percentages as it proposes to increase the Company's energy savings goals.

28. We decline to approve the demand goals proposed by Public Service because they fail to factor in potential contributions from load management and demand-response resources. However, we conclude that the record in this Docket is insufficient for us to establish appropriate demand reduction goals for Public Service that would account for load management and demand-response resources. We therefore direct Public Service to propose specific demand reduction goals for 2012 and 2013 as part of its 2012-2013 DSM Plan filing due no later than July 1, 2011. At a minimum, these goals should account for expected demand reductions from the Company's energy efficiency and conservation programs in its electric DSM portfolio,

as well as demand reductions from the ISOC program, the demand response program presently managed by EnerNOC, and the residential Saver's Switch program.¹¹

E. Electric DSM Financial Incentive Mechanism

1. Existing Mechanism

29. We initially established a cost recovery and financial incentive mechanism for Public Service's electric DSM efforts in Docket No. 07A-420E. We found that a financial incentive for DSM consists of several components, each of which has an impact on Public Service. The first component provides a recovery mechanism for DSM costs, while the second addresses the fact that DSM, as a business venture, runs counter to the Company's business practices. The third component represents a performance incentive to reward the Company for meeting and exceeding its savings goals. Decision No. C08-0560, at 32. Therefore, by Decision No. C08-0560 we allowed Public Service to expense all of its DSM costs and to recover these costs through electric and gas demand side management cost adjustment (DSMCA) riders on a prospective basis. We also allowed the Company to collect a pre-tax disincentive offset of \$3.2 million (post-tax of \$2 million). This amount is awarded to the Company for each vintage of DSM programs as long as it achieves at least 80 percent of the associated energy savings goal. Finally, we awarded the Company a performance incentive as it nears, meets, and exceeds its annual energy savings goals. Specifically, once Public Service surpasses 80 percent of the energy savings goal for a vintage of DSM programs, the Company earns 0.2 percent of the associated net economic benefits for each percentage point of achieved savings relative to the goal, up to

¹¹ By this Order, we make no modification to the range of demand savings established in Docket No. 07A-420E for ERP modeling purposes. Specifically, demand savings through 2020 shall be in the range of 886 to 994 MW, not including Savers' Switch and ISOC. Decision No. C08-0560, at 22. However, we also recognize that demand reduction goals could be established in a future docket before the completion of Phase II of the Company's next ERP proceeding.

10 percent of net economic benefits at 130 percent of goal attainment.¹² The current mechanism is capped at 20 percent of program expenditures.¹³ The Company collects 60 percent of its total incentive award beginning July 1 following the associated program year. The remainder of the financial incentive is paid after an additional two years.

30. We further found in Decision No. C08-0560 that each component of this cost recovery and incentive “package” has an impact on the Company’s ability to make its DSM investments more profitable as compared to other investments, consistent with § 40-3.2-104(5), C.R.S. We concluded that such an incentive package should provide Public Service sufficient incentive to meet statutory requirements and signal to Public Service our expectation that it aggressively pursue all cost-effective DSM. We also concluded, however, that the incentive package should also be tempered, so that it does not raise rates more than necessary to achieve the desired results. Decision No. C08-0560, at 33.

31. We additionally noted in Decision No. C08-0560 that we had no precedent to instruct us as to the appropriate level of incentives to offer Public Service. We accordingly found that the incentive established in Docket No. 07A-420E will need to be reevaluated based on experience. Decision No. C08-0560, at 33.

2. Public Service’s Proposed Mechanism

32. Public Service argues that a new financial incentive mechanism for electric DSM is necessary because the Company is proposing overall higher energy savings goals and because “as energy savings goals increase over time, it is both more difficult to achieve the higher goals

¹² Beyond 130 percent of goal attainment, Public Service earns an additional 0.1 percent of net economic benefits, up to a cap of 12 percent at 150 percent of goal attainment.

¹³ The caps established by Decision No. C08-0560 were later modified by Decision No. R10-1297, issued December 3, 2010, in Docket No. 07A-420E.

and the adverse financial impact on the Company in the form of lost margins is also greater.” Public Service Statement of Position (SOP), at 3. Public Service claims that there is no certainty under the current incentive mechanism that the performance incentive earned by the Company will be sufficient to overcome the negative financial impact of lost margins. In addition, Public Service faults the existing cap on the financial incentive for deterring the Company from acquiring additional energy savings and their associated benefits. Public Service therefore proposes a new financial incentive mechanism that combines explicit recovery of the lost margins associated with DSM efforts plus a performance incentive based on a share of net economic benefits.

33. Public Service would calculate lost margins after the end of each calendar year by multiplying an estimate of the achieved savings for that year by a measure of the unit fixed costs (including the Company’s return) recovered in base rates as established in the Company’s most recent general electric rate case. These calculated lost margins would then be recovered through the Company’s electric DSMCA rate rider over 12 months beginning July 1, provided that the Company achieves more than 80 percent of the energy savings goal established by the Commission for that vintage of electric DSM programs. Recovery of lost margins would continue through the DSMCA until new base rates that account for the lost margins took effect. Absent a change in base rates, however, the Company would collect lost margins through the DSMCA for no more than three years.

34. With respect to the proposed performance incentive, Public Service would become eligible for a financial award as long as it achieved more than 100 percent of the energy savings goal approved by the Commission for that program year. The award would take the form of a percentage share of the net economic benefits associated with the achieved savings.

Net economic benefits would generally be calculated using the same method for calculating DSM program savings in pre-implementation tests for cost-effectiveness. The percentage share awarded to the Company would increase on a graduated schedule from 2 percent (at 100 percent of the goal attained) to a maximum of 5 percent (at 130 percent of the goal attained). The maximum performance incentive awarded would generally be \$16 million or 25 percent of the Company's DSM expenditures for the year, whichever is less. Additionally, Public Service requests that 100 percent of the entire financial incentive attributable to a vintage of DSM program be awarded in one installment instead of two installments.

35. Although Public Service wants the Commission to approve its preferred financial incentive, the Company offers two alternatives for the Commission to consider due to the strong opposition among several parties to the direct recovery of lost margins. Public Service states that both alternatives have been structured "so as to afford the Company with the opportunity to earn a higher total incentive and thereby provide it with sufficient incentive to truly offset the negative financial impact from DSM and provide it with a reasonable reward for achieving and exceeding approved energy savings goals." Public Service SOP, at 22. In short, the Company requests that the Commission "recognize the need for at least modest changes in the current mechanism." Public Service SOP, at 4.

36. In its direct case, Public Service offers an alternative proposal that retains the same general structure of the Company's existing financial incentive mechanism for electric DSM programs. The "disincentive offset" would increase from the existing \$3.2 million (pre-tax) to a new level calibrated to the expected level of lost margins associated with each year's programs over two years. A performance incentive would also be included, with a graduated share of net economic benefits awarded to the Company according to the level of

achieved savings. The performance incentive would begin at 2 percent of net economic benefits at the level of 80 percent of the savings goal achieved and would rise to 8 percent of net economic benefits at the level of 130 percent of the savings goal achieved. While the disincentive offset would not be capped, the performance incentive could reach a maximum of \$26 million or 40 percent of program expenditures, whichever is lower.

37. Public Service put forward in its rebuttal case what it ultimately declares to be its preferred alternative. The disincentive offset under this mechanism would increase from \$3.2 million (pre-tax) to \$5 million (pre-tax) and would be awarded to the Company for achieving at least 80 percent of its energy savings goal. The performance incentive would begin at 2 percent of net economic benefits and would rise to a maximum of 11 percent of net economic benefits at the 130 percent level of savings. In terms of dollars, the maximum level of the performance incentive would be capped at \$35 million.

3. Positions of the Parties

38. Staff recommends that the Commission continue to deny direct recovery of lost margins in accordance with Decision No. C08-0560. Staff argues that once the Company perceives that it is made whole through the direct recovery of lost margins, any incentive to engage in cost effective DSM is lost. Staff instead proposes that the Commission continue the existing disincentive offset, but adjusted for inflation to maintain a constant real dollar value of the \$3.2 million (before tax) bonus established in Docket No. 07A-420E. Staff also recommends that the Commission adopt a rate impact cap for the combination of DSM expenditures and incentives. According to Staff, this rate impact cap would “send a signal to ratepayers that DSM would not cost them more than the approved percentage while continuing to send the Company

and the State of Colorado the message that the Commission supports the pursuit of cost effective DSM.” Staff SOP, at 9.

39. The OCC suggests that the Commission consider the magnitude of the financial incentive in relation to the Company’s rates. In this context, the OCC argues that the Company requires no disincentive offset whether it continues in its existing form or it takes on a new form for the direct recovery of lost margins. The Commission should not, according to the OCC, conclude that acquiring DSM is something other than a standard utility practice. The OCC believes that, if revenue is lost due to DSM, the Commission can address the issue in a general rate case.

40. In place of the Company’s proposed financial incentive, the OCC recommends that Public Service capitalize rather than expense its DSM spending and that the Commission approve a return on those capitalized DSM investments at a rate that is slightly higher than the return on the Company’s other rate base investments. The precise rate could vary within a range from 5 to 25 basis points higher depending on the Company’s performance. In the event the Commission rejects that approach, the OCC recommends that the Commission adopt SWEEP’s proposal (described below). The OCC’s second best alternative is for the Commission to adopt the alternative incentive set forth in Public Service’s rebuttal case.

41. Both the GEO and SWEEP suggest that, instead of allowing for the direct recovery of lost margins to remove the financial disincentives faced by Public Service with respect to DSM, the Commission should pursue complete revenue decoupling.¹⁴ SWEEP argues that direct recovery of lost margins will fail to motivate Public Service to support energy

¹⁴ Revenue decoupling generally entails the establishment of a revenue target, such that a utility’s rates are adjusted upward to account for lower-than-target revenues due to energy efficiency, for example, and are adjusted downward to account for higher-than-target revenues due to increases in usage per customer, for example.

efficiency policies more broadly because the Company would still be penalized financially for energy savings. Moreover, SWEEP argues that lost margin recovery will still give Public Service an incentive to increase sales in other ways even while DSM is encouraged. Therefore, SWEEP requests that the Commission direct the Company to propose one or more specific decoupling designs in its next general rate case which is expected to be filed in 2012. Meanwhile, SWEEP suggests that the existing mechanism as recently modified in Docket No. 07A-420E should continue until a decoupling mechanism is established. Once decoupling is in place, the Commission should then adopt the performance incentive mechanism advanced by the Company in this Docket, with certain modifications.

42. CF&I/Climax and CEC adamantly oppose Public Service's proposed financial incentive. Both parties call it a gratuitous transfer from customers to shareholders and a classic example of single-issue ratemaking. Both parties doubt that the Company needs a new incentive to act in the best interest of customers and to comply with statutory requirements, and both parties appear to likely be satisfied with the continuation of the existing mechanism. Even so, both express concerns about the recent upward trends in the Company's base rates and projected rate increases associated with other recent dockets (*i.e.*, the 2007 ERP and the Clean Air-Clean Jobs proceedings, Docket Nos. 07A-447E and 10M-245E).

43. For their part, CF&I/Climax point out the recovery of DSM costs as expenses on a current basis through the DSMCA already provides "preferential ratemaking treatment" relative to other expenses. They also argue that nothing has changed since the Commission issued its final decision in Docket No. 07A-420E in order for us to change our position on lost margins now. CF&I/Climax further argue that the Company cannot quantify lost margins with the necessary precision for ratemaking. For instance, they argue that the fundamental

assumptions for quantifying projected and achieved savings are outdated and flawed. They further argue that the proposed caps on the financial awards are arbitrary, unfair, and unreasonable.

44. CEC basically argues that Public Service's proposed financial incentive mechanism, as well as the Company's two alternative proposals, are "too rich, particularly when the record makes clear that the Company does not intend to do anything differently from or in addition to its existing efforts to achieve energy savings if a richer incentive award is granted." CEC SOP, at 6. CEC also echoes SWEEP's concern that direct lost margin recovery will fail to eliminate the Company's incentive to sell more electricity.

45. In response to these criticisms, Public Service reasserts that "it is reasonable to assume that the Commission's approval of a more favorable incentive mechanism will result in better performance." Public Service SOP, at 19. Public Service justifies its lost margin proposal largely on the grounds that the determination of the profitability of DSM depends solely on its incremental impacts; thus, according to the Company, contributions to earnings from other lines of business do not affect the profitability of DSM. Public Service also refutes CF&I/Climax's claim that lost margin recovery is too uncertain as a result of the measurement of energy savings from DSM.

46. Public Service strongly opposes any consideration of revenue decoupling as a remedy for the financial disincentive posed by DSM. Notably, Public Service admits that it views increases in usage per customer to be an important source of revenue growth when there are no significant short-term increases in non-fuel costs. Furthermore, Public Service asserts that there is no evidence in this proceeding upon which the Commission could base a decision adopting a revenue decoupling regime.

4. Findings

47. With respect to the basic recovery of electric DSM costs, we will not adopt the OCC's suggestion that DSM expenditures be capitalized so that a relatively more profitable rate of return can be directly applied to these DSM investments. We instead reaffirm the existing practice to be appropriate, whereby Public Service expenses its costs and recovers them, on a prospective basis, via a combination of base rates and the DSMCA. Per Staff's suggestion, we reiterate that interest on the deferred DSMCA balance is to be applied asymmetrically at the customer deposit rate.

48. We also find that it is appropriate to extend to Public Service a disincentive offset. As under the existing mechanism, the purpose of this disincentive offset is to address the fact that DSM, as a business venture, runs counter to the Company's business practices. By adopting this disincentive offset, we acknowledge the disincentive to the Company regarding the provision of DSM services without defining, quantifying, and explicitly compensating the Company for lost margins. In light of our establishing even more aggressive electric energy savings goals than we established in Docket No. 07A-420E, we will increase the pre-tax disincentive offset from \$3.2 million to \$5 million if Public Service meets or exceeds 100 percent of its electric energy savings goals. Public Service will continue to receive a pre-tax disincentive offset of \$3.2 million for performance relative to its electric energy savings goals in the range from 80 percent to 99 percent.

49. Furthermore, we find that it is reasonable to offer the Company a performance incentive. The primary purpose of this component of the financial incentive package is to emphasize the achievement of the higher electric energy savings goals that we also establish by this Order. As under the existing mechanism and Public Service's alternative proposal, the

Company becomes eligible to receive a performance incentive once it surpasses 80 percent of its electric energy savings goal. However, we substantially increase the percentage share of net economic benefits made available to the Company in the range between 80 percent and 100 percent of goal commensurate with our adoption of more aggressive energy savings goals. The performance incentive shall be 1 percent of net economic benefits for achieved savings at 80 percent of the savings goals, 2 percent at 85 percent of the savings goal, 3 percent at 90 percent of the savings goal, and 4 percent at 95 percent of the savings goal. At 100 percent of the goal, Public Service becomes eligible for a 5 percent share of net economic benefits. The performance incentive share of net economic benefits continues this pattern, where each 5 percent increase of achieved savings above the goal results in a 1 percent addition to the share of net economic benefits awarded to the Company, up to a maximum of 15 percent at 150 percent of goal.¹⁵

50. We further cap the maximum award to Public Service, including the pre-tax disincentive offset and the performance incentive, at \$30 million. We conclude that this cap will ensure that DSM yields an opportunity for the Company to enjoy a positive impact on its earnings per share while preventing an inadvertently excessive incentive.

51. We also grant Public Service's request to modify the payment of the incentive from two installments to a single installment. We find that it is reasonable that Public Service collect from ratepayers the combination of the disincentive offset and the performance incentive

¹⁵ The percentage share of net economic benefits increases linearly beginning at 80 percent of goal such that for each 1 percent of goal attainment beyond 80 percent, Public Service shall earn an additional 0.2 percent of net economic benefits. For example, at 101 percent of goal, the Company is awarded 5.2 percent of net economic benefits.

over 12 months beginning the July 1 following the year for which Public Service qualifies for an award.

52. Finally, Public Service included with its Application a new electric DSMCA tariff that incorporates its proposed financial incentive mechanism. The Company requests that the Commission permit the Company to file a compliance DSMCA tariff reflecting any changes to the incentive mechanism that are approved as a result of this proceeding and any other approved updates to the tariff.

53. We direct Public Service to modify its electric DSMCA tariff to reflect the modified incentive structure we adopt here and to make an advice letter filing with a compliance DSMCA tariff within 90 days of the effective date of this Order.¹⁶ The compliance tariff advice letter filing shall be made on not less than ten days' notice. Given these deadlines, the modified DSMCA tariff shall include provisions that apply to the incentives for which Public Service will be eligible to receive before July 1, 2013 as well as the incentives for which the Company will be eligible to receive beginning on that date.

F. ISOC Incentive

54. Public Service requests that the Commission approve a separate incentive mechanism for its ISOC program to allow it to profit from any incremental growth in the load served under the tariff over a five-year period. Public Service argues that the proposed incentive, equal to 5 percent of the net present value of the ISOC credits paid to customers providing the incremental load, is appropriate since the Company's spending on the ISOC program qualifies to be more profitable than other Company investments in accordance with § 40-3.2-104(5), C.R.S.

¹⁶ Consistent with the discussion below, the DSMCA tariff shall not be modified to incorporate a financial incentive for the Company's ISOC program.

In addition, Public Service requests approval of the collection of its annual incremental costs associated with marketing the program. The Company would cap the collection of these costs at 5 percent of the total ISOC credits for the same year.

55. Staff opposes any incentive for ISOC, suggesting that the Commission first address the policy issue of whether any tariff that encourages ratepayers to reduce energy consumption or demand should be considered a “DSM program.” Staff further states that if the Commission were to approve this incentive, the Commission may unintentionally signal that it supports the marketing of other tariffs as well. CF&I/Climax, the OCC, and SWEEP also oppose the incentive for a variety of technical and policy reasons.

56. We decline to approve an ISOC incentive in this Docket. We find that there is no assurance that the addition of an incentive will cause Public Service to grow the ISOC program with new load. We also find that there is insufficient evidence about the level of incentive that would be appropriate, particularly since the Company’s proposal is not based any known and measurable data regarding the need for incremental ISOC load and the market potential to satisfy that need.

57. With respect to Public Service’s request to collect incremental marketing costs through the electric DSMCA rider, we note that no party opposed this request in testimony or at hearing. However, we also find that there is no record in the docket concerning the appropriate level of these costs, despite the Company’s assurance that a voluntary cap of 5 percent of total annual ISOC credits would suffice. We nonetheless approve the Company’s request to recover incremental ISOC marketing costs through the electric DSMCA. However, we will also require Public Service to provide data regarding the projected level of costs in each of its biennial DSM plan filings beginning with the 2012-2013 DSM Plan. The data should be sufficient for

parties to evaluate the prudence of the costs as well as the reasonableness of the level of costs incurred.

G. Gas Savings Goals

58. Given prevailing and anticipated lower commodity market prices for natural gas, Public Service seeks direction from the Commission on the appropriate objectives for natural gas efficiency and conservation efforts and the proper mix of spending between direct impact, educational, and low-income programs in its gas DSM portfolio. Public Service further indicates that, because some gas DSM programs will have difficulty in passing the modified total resource cost (TRC) test for cost effectiveness due to low gas prices, it will likely propose lower savings goals on the order of 225,000 Dth to 275,000 Dth for 2012 and 2013, or about a 25 percent reduction from the 402,808 Dth in 2010. The estimated budget for these program years is approximately \$11 to \$12 million, reduced from the Company's gas DSM budget of \$16.5 million budget in 2010.¹⁷

59. Staff recommends that the Commission not approve gas savings goals for 2012 and 2013 in this Docket. Staff further opines that additional expenditures may be made for programs that do not need to be shown to be cost-effective, such as educational and market transformation programs, in order to mitigate the effects of lower gas prices. As another alternative, Staff suggests that the Company could ask the Commission to approve a one-year gas DSM plan for 2012 only.

60. In contrast, SWEEP requests that the Commission direct Public Service to substantially increase its gas DSM efforts to reach a savings target of 900,000 Dth for

¹⁷ Subparagraph 4753(g)(I) of our Gas DSM Rules, 4 CCR 723-4-4750, *et seq.*, establishes a minimum annual expenditure target for gas DSM efforts of 2 percent of base rate revenue. Public Service indicates that this requirement translates into approximately \$6.1 million annually based on 2009 base rate revenue.

each year 2012 and 2013 with an annual budget of \$32 million. SWEEP argues that this goal will maximize customer participation, net economic benefits, and energy savings. In support of its suggestion, SWEEP references the market potential for gas DSM in the 2009 DSM Market Potential Study and points to the efforts of Questar Gas Company in Utah.

61. We find that it is not appropriate to set a gas savings goal in this Docket. Lower gas commodity prices will negatively affect the modified TRC values for some gas programs, and this suggests that raising goals to the level proposed by SWEEP may not be properly timed. Instead, we direct Public Service to submit a gas DSM plan filing for either 2012 only or for both 2012 and 2013. In consideration of that future filing, we will establish the appropriate gas savings goals for the Company for the period addressed in the plan. In addition, we will require Public Service to identify any gas DSM programs that it has offered in the past that will no longer pass the modified TRC test for cost-effectiveness due to low gas prices. We will thus be able to consider the Company's proposed gas savings goals and the proposed composition of the Company's gas DSM portfolio with more detailed information than is available to us now.

62. Natural gas commodity prices are notoriously volatile, and we are concerned that falling prices may result in the Company substantially ramping down its efforts in the near term when new projections of rising prices might support more gas DSM soon afterwards. It may be the case that the Company's customers would be better served with more stable program offerings over longer periods as compared to contracting and expanding DSM portfolios tailored to new price projections in the short run. Therefore, we also expect the Company to address in its next gas DSM plan filing the potential advantages and disadvantages of stable gas DSM portfolios over multiple years.

H. Future Filing Requirements

1. 2012-2013 DSM Plan and Future DSM Plans

63. We direct Public Service to file its 2012-2013 DSM Plan in accordance with the discussion above concerning electric energy savings goals, gas savings goals, and peak demand reductions. This filing shall be submitted on or before July 1, 2011 pursuant to Decision No. C10-0584. *See* Decision No. C10-0584 in Docket No. 07A-420E, issued June 11, 2010, at 3.

64. Consistent with existing practice, Public Service shall set forth in this plan the various programs the Company will implement each year with an associated annual budget. Specifically, the plan shall describe how each DSM program or activity is expected to operate, which customers are eligible to participate, how customers receive the services, who provides those services, and how the program will be evaluated and monitored. The plan shall also establish a budget for each program and shall demonstrate how that program is cost effective either on a stand-alone basis (for most direct impact programs) or on an entire-portfolio basis (for many indirect impact programs). The Company's DSM plan shall also set forth the technical assumptions that support both the analysis of program cost effectiveness and the calculations of achieved savings and projected net economic benefits. The plan shall further describe ongoing measurement and verification protocols for the DSM programs as well as parameters for comprehensive evaluations for select programs.

65. The filing requirements set forth above shall also apply to the Company's DSM plan filings beyond the 2012-2013 DSM Plan in accordance with our decision to re-affirm those practices and procedures initially established for the Company's 2009-2010 DSM Plan that we wish to see continue into the future.

2. Demand Reduction Market Potential and Goals

66. As discussed above, we will not approve the demand reduction goals proposed by Public Service in this Docket due to the absence of information in the record concerning the market potential for demand reductions from efforts other than energy efficiency, such as interruptible service offerings, load management programs, and demand response initiatives. We instead instruct Public Service to propose demand reduction goals for 2012 and 2013 that include energy efficiency, interruptible service offerings, demand response resources, and load management programs in its 2012-2013 DSM Plan.

67. In order for the Commission to establish appropriate demand reduction goals for Public Service through 2020, however, we also direct Public Service to submit a new application filing to address more generally the market potential for demand reductions from load management, demand response, and interruptible services. We expect this filing to be made within 12 months of the effective date of this Order.

68. The OCC argues that there may be inequities among customer types in Public Service's various interruptible programs and requests that the Commission require Public Service to investigate this matter. The OCC further suggests that a stakeholder group be established to assist in this investigation.

69. While we are not convinced that it is necessary to establish a stakeholder group for demand response programs that is separate from the Company's existing DSM Roundtable, we will direct Public Service to take a broad view of the potential market for interruptible resources as it develops the application filing described above. We further encourage the Company to address in that filing, along the lines suggested by Staff, how rate-oriented programs

such as ISOC or time-differentiated prices would relate to the Company's DSM activities, the market for demand response, and the acquisition of demand-side resources generally.

3. Strategic Issues Docket

70. Staff argues that the Commission should order Public Service to file a future DSM strategic issues docket in 2014 to inform future DSM plans beginning in 2015. A 2014 filing deadline would force the re-examination of goals, emerging technologies, and other potential issues.

71. Public Service similarly recommends a review of savings goals in late 2014 to inform a DSM plan filing to be made in July of 2015. For example, Public Service cites the potential need to recalibrate the sharing percentages of net economic benefits associated with the Company's performance incentive, because these net economic benefits change over time, often for reasons beyond the Company's control (*e.g.*, avoided fuel costs).

72. We agree with Staff and Public Service that another proceeding like this one would be useful for examining potential adjustments to the Company's savings goals and commensurate changes to its DSM financial incentive mechanism after the 2012-2013 DSM plan has been implemented but before the Company submits its DSM plans for the last few years leading to the statutory compliance date of 2018.¹⁸

¹⁸ We also recognize that DSM programs for 2014 do not conform to this implied pattern of future filings. We therefore expect to address the Company's 2014 DSM Plan separately, upon a filing made by Public Service on or before July 1, 2013.

I. Program Administration**1. Third-Party Administration**

73. The GEO proposes that the Commission consider third-party administration of the programs offered to Public Service's customers as a potential solution to financial disincentives that the Company faces with respect to DSM. According to the GEO, the primary advantage of a third-party administrator is the elimination of the conflict between meeting energy efficiency goals and the subsequent loss of retail sales associated with those goals. The GEO specifically points to the experience of the Energy Trust of Oregon, a non-profit corporation established in 2002 devoted exclusively to supporting the development of cost-effective local energy conservation, market transformation, and renewable energy measures for regulated utilities, as an example of successful third-party administration. The GEO characterizes third-party administration as a "safety valve" or alternative contingent pathway, should decoupling not perform satisfactorily.

74. CEC also supports a third-party administrator, claiming that Public Service will want to be paid an ever-larger premium for its DSM services. CEC contends that at some point, the cost to society of paying these premiums becomes too great relative to the perceived convenience of having the utility be the focal point of control for implementing these programs. CEC also concludes that it is better to remove the inherent conflict in pursuing energy efficiency by a third-party rather than pursuing decoupling.

75. SWEEP opposes third-party administration, noting that it would introduce additional levels of complexity, such as overseeing the administrator, determining compensation for the administrator, and developing working relationships. SWEEP also doubts that a

third-party program administrator will not remove the Company's financial disincentive to reduce energy sales between rate cases.

76. For its part, Public Service argues that the Company is best suited to the administration of its DSM programs. Public Service further argues that any assumption that a third-party manager would be able to deliver the same levels of energy savings at a more reasonable cost is unsubstantiated.

77. We decline to pursue third-party management of the Company's DSM programs at this time. We agree with Public Service that too little is known about the incremental costs of adopting third-party administration and therefore we cannot conclude now whether such a model would be cost-effective. Moreover, it is likely that the General Assembly would offer a cleaner path to third-party administration in the event that interest grows in this particular approach in the future.

2. Competitive Acquisition of DSM Resources

78. The OCC proposes that the Commission direct Public Service to use competitive solicitations to acquire all DSM resources. The OCC argues that competitive bidding would result in least-cost resources for DSM as well as confirmation that these demand-side resources are less expensive than the displaced supply-side resources. The OCC further argues that the over-arching goal of competitive bidding is the minimization of the net present value of revenue requirements. If the Commission disagrees that competitive bidding should be required for the acquisition of all DSM, the OCC proposes an alternative where the Company could acquire the statutory minimum of demand-side resources without competition, but would then bid for any additional DSM resources.

79. Public Service does not support a requirement that all DSM resources be acquired through competitive bidding. First, the Company argues that competitive bidding could result in the duplication of already robust and successful programs. Second, the Company explains that its past experiences in acquiring DSM resources from bidders were unsuccessful, particularly since the Company could not come to agreement with winning bidders on how the risk of non-performance would be addressed. Third, Public Service points out that it already contracts with a broad spectrum of third-party bidders for certain programs and services in its DSM portfolio. Finally, Public Service notes that it has already exceeded the statutorily mandated level of DSM and there are cost-effective processes in place to acquire even more DSM resources beyond these mandated levels.

80. SWEEP similarly objects to competitive acquisition of DSM resources, stating that Public Service already does a good job of planning and implementation. SWEEP further explains that there are benefits to Public Service being able to jointly market and implement its entire portfolio of DSM programs. SWEEP also points out that there would be added confusion and complexity surrounding goals and responsibilities if all DSM resources were competitively bid.

81. We will not require Public Service to use competitive bidding to acquire all DSM resources. Nevertheless, we find that Public Service should make a more robust and transparent application of competitive bidding as it implements an approved DSM plan. Public Service will continue to manage these DSM resources, but the Company shall also provide a broad-based opportunity for bidders to compete for the opportunity to provide DSM services to its customers as a means to ensure the most cost-effective provision of programs. Therefore, Public Service is directed to identify, in its 2012-2013 DSM Plan, the specific programs that will be open to

competitive bidding for implementation. In addition, Public Service shall set forth the specific criteria under which it will evaluate such bids. Further, Public Service is directed to quantify and track any additional costs it incurs in the use of third-party DSM providers. We find that such information may enable the Commission to evaluate the cost-effectiveness of third-party providers in the future.

3. Program Budget and Portfolio Management

82. The Commission granted Public Service the flexibility to manage its electric and gas DSM portfolios pursuant to the 2009-2010 DSM Plan approved in Docket No. 08A-366EG. Such flexibility derives from the discretion the Company enjoys in making interim changes to its DSM program and activities without first seeking Commission approval. For instance, the Company may increase portfolio budgets within certain parameters—up to a 15 percent increase for electric programs and up to a 25 percent increase for gas programs—so long as the overall portfolio remains cost effective. The Company may also move budget dollars within the respective gas and electric programs, but not between them. In any event, spending on low-income programs cannot be reduced unless Public Service has achieved 100 percent of the forecasted level of participation in such programs. Docket No. 08A-366EG, Settlement Agreement, at 10-12.

83. In addition, Public Service has the discretion to modify DSM programs in its approved portfolio, such as changing the level of rebates paid to participants or adding or discontinuing programs. Such changes come about through either a 60-day or 90-day

stakeholder notice and comment period as well as through quarterly stakeholder meetings called the DSM Roundtable.¹⁹ Docket No. 08A-366EG, Settlement Agreement, at 5-6.

84. Public Service has assumed in this Docket that these same protocols for program administration would apply to its future DSM plans despite the genesis of these protocols from a settlement agreement concerning specifically the Company's 2009-2010 DSM Plan. Staff recommends, however, that, rather than assuming the provisions established in the Company's previous DSM-related proceedings will continue indefinitely, the Commission should include in its final decision in this Docket the policies and practices that the Commission would like to see continue for Public Service, particularly for the Company's 2012-2013 DSM Plan. According to Staff, these policies and practices would include: the minimum contents of a DSM plan; the annual filings of DSM reports; and reaffirmation that all customers be provided a reasonable opportunity to participate in DSM. These continuing policies would also include "uncontested" provisions from previous Commission orders.

85. CF&I/Climax point out that regardless of length of a notice period, a notice period is not equivalent to an application with the Commission. Consequently, they request that the Commission require the Company to introduce any new category of DSM programs, such as market transformation programs, through the DSM plan application process rather than through the notice process established in Docket No. 08A-366EG. CF&I/Climax further argue that behavioral change, codes and standards, and other market transformation programs are more complex and their impacts are more difficult to measure than other, more typical DSM programs.

¹⁹ In its direct case, Public Service sought to shorten these notice provisions and to reduce, potentially, the number of its DSM Roundtable stakeholder meetings. In response to EEBC criticisms of these suggested changes, the Company retracted them in its Rebuttal Testimony.

Accordingly, they recommend that these new types of programs be subject to the scrutiny provided by a full application process.

86. We conclude that it is both administratively efficient and reasonable for Public Service to continue implementing its approved DSM plans in accordance with the general policies and practices we afforded the Company with respect to its 2009-2010 DSM Plan. The flexibility and management discretion these provisions offer the Company may be necessary for Public Service to satisfy its electric and gas savings goals; yet they are bounded within sensible limits around Commission-approved program designs and budgets.

87. In order for these provisions to function properly, we direct Public Service to implement the following once the Commission has authorized the Company to implement the programs and activities described in a DSM plan:

- Public Service shall continue to regularly report to and meet with interested stakeholders at its DSM Roundtable. At the time of the DSM Roundtable meeting, stakeholders may submit, in writing, new program ideas or proposed revisions to existing programs. Public Service will consider these suggestions, but the Company retains the right to decide whether to implement the stakeholders' recommendations.
- Public Service shall file quarterly updates and annual reports with the Commission. The quarterly and annual reports shall address program status, program changes, as well as achieved savings and expenditures by program. The annual report shall also address net economic benefits achieved and annual CO₂ and SO_x emission reductions.
- Consistent with current practices, Public Service shall implement, on a prospective basis, changes to technical assumptions, net-to-gross ratios, or program processes that result from a comprehensive program evaluation, where such evaluation is identified in an approved DSM plan. Non-confidential portions of all program evaluations shall also be filed with the Commission and made available to participants in the DSM Roundtable.

88. We will continue to allow Public Service to move budget dollars between specific programs and customers segments within its proposed DSM program portfolio (but not between the gas and electric programs) once the Commission approves a total portfolio budget in a

DSM plan and so long as the change is to achieve the energy savings and demand reduction goals set forth in the DSM Plan. In addition, the Company shall enjoy a rebuttal presumption that actual expenditures within 115 percent of the approved electric DSM budget for any plan year are reasonable and prudent, so long as the total portfolio of electric DSM programs implemented by the Company have a modified TRC ratio of at least one. Similarly, the Company shall enjoy a rebuttal presumption that actual expenditures within 125 percent of the approved gas budget for any plan year are reasonable and prudent, so long as the total portfolio of natural gas DSM programs implemented by the Company have a modified TRC ratio of at least one. If the Company's total expenditures for DSM programs in any year exceed 115 percent of the total approved electric DSM budget or 125 percent of the total approved gas DSM portfolio budget, Public Service shall have the burden of going forward and the burden of proof with respect to the reasonableness and prudence of any expenditures exceeding those thresholds.

89. Given these budgetary limitations, Public Service shall be allowed to add a new DSM program or to adopt new measures to its existing DSM programs if the Company provides 60 days' advance notice to the parties in this Docket and to persons included on the Company's DSM Roundtable distribution list.²⁰ In general, program additions eligible for noticing shall entail either the introduction of new pilot programs of any category²¹ or the introduction of full-scale traditional programs that offer measures or services considered in the development of the "base assessment" in the Company's 2009 DSM Market Potential Study. As discussed below,

²⁰ The list of Roundtable Participants shall generally include those persons who express an interest in the Company's DSM activities.

²¹ A pilot program is temporary in nature, available to only a subset of customers, and limited in cost. Pilot programs are generally used when a technology or delivery approach is unproven. Decision No. C08-0560, at 39 and 45.

Public Service shall not use this notice process to introduce to its DSM portfolio any new, full-scale behavioral change or non-traditional program, including the types of programs discussed by witnesses in this Docket. Public Service will, however, be allowed to reduce rebate levels and to discontinue existing measures using this 60-day notice process. Likewise, in the event Public Service decides to discontinue any DSM program contained in the Company's approved DSM plan, it shall provide 90 days' notice and the basis of such decision to the parties in this Docket and to persons included on the Company's DSM Roundtable distribution list.

4. EEBC Settlement

90. On February 28, 2011, Public Service and EEBC filed a Joint Motion for an Order Approving Settlement Agreement and a Settlement Agreement. *See* Hearing Exhibit 29. The Settlement Agreement states that all issues raised by EEBC in this Docket have been resolved to the satisfaction of both parties. The Settlement Agreement also presents four main provisions. First, Public Service will provide EEBC with Company contacts for direct communication regarding the design and development of existing and potential residential and commercial DSM programs and products. Second, Public Service agrees to keep EEBC apprised of developments to DSM products identified as of interest to EEBC in a list provided to the Company annually, and as updated from time to time by EEBC. Third, Public Service agrees to provide, as requested by EEBC, cost-benefit analyses in executable format on specific DSM product offerings or products in development. Finally, Public Service agrees that DSM managers will work with EEBC in good faith over a period of 12 months to evaluate and develop training of contractors who deliver Company DSM products.

91. We find that approval of the Settlement Agreement is in the public interest and accept the terms of the agreement as filed.

J. Program Proposals**1. Market Transformation Programs**

92. Public Service generally defines market transformation as strategies intended to remove barriers to the adoption of energy efficiency measures and to achieve a permanent shift in a market. Our Gas DSM rules similarly define market transformation as: “a strategy for influencing the adoption of new techniques or technologies by consumers. The objective is to overcome barriers within a market through coordinating tactics such as education, training, product demonstration and marketing, often conducted in concert with rebates or other financial incentives.” 4 CCR 723-4-4751(n).

93. By Decision No. C08-0560, we found that market transformation programs are beneficial in completing a DSM portfolio and directed the Company to include such programs in its specific DSM plans and in its long-range DSM strategies. We also directed Public Service to include in each DSM plan filing a proposed budget dedicated to market transformation in activities and anticipated results. Decision No. C08-0560, at 44.

94. Public Service expects market transformation programs to provide significant energy and demand savings between 2012 and 2020, and the Company therefore plans to introduce more market transformation programs to its DSM portfolio in order to meet the energy savings and demand goals we establish. In order for these programs to count against those savings goals, the Company must quantify and take credit for the associated savings. This approach contrasts to our earlier framework we adopted in Docket No. 07A-420E where no savings was generally quantified for market transformation programs and such programs were assumed to have a modified TRC value of 1. Decision No. C08-0560, at 44-45.

95. At hearing, Public Service clarified that it would like to work toward implementing more market transformation programs that produce measurable savings. However, the Company also explained that it would not completely eliminate those market transformation programs that are not measurable and for which it takes no credit.

96. Staff generally does not oppose the introduction of market transformation programs whose savings can be quantified. Staff suggests, however, that the measurement and verification of savings from these programs be addressed, presumably in the context of specific program proposals set forth in the Company's biennial DSM plan filings.

97. CEC objects to market transformation programs, arguing that not all measurable energy savings from market transformation efforts are traceable to Public Service. CEC contends that credit for market transformation activities, such as behavioral change programs, amount to inappropriate "royalty payments" and should therefore be denied.

98. In light of Public Service's proposal to begin claiming credit for savings from certain market transformation activities, we conclude that our earlier findings in Decision No. C08-0560 regarding market transformation programs remain appropriate. Specifically, Public Service shall continue to include market transformation programs and activities in its DSM plans and the Commission shall consider those proposals in the context of the Company's overall electric and gas DSM portfolios. Public Service shall continue to propose budgets dedicated to these activities and explain the anticipated results.

99. We agree with Staff that, in the event that Public Service seeks to implement a market transformation program for which it will claim savings to count against its energy savings or demand reduction goals, the Company must detail in its DSM plan filings how the measurement and verification of such savings will be accomplished. Furthermore, we direct

Public Service to justify in its DSM plan how its market transformation efforts are linked to such credits for savings. For market transformation activities for which the Company will not attempt to measure savings, such programs will have an assumed TRC value of one consistent with current practices.

2. Behavioral Change/Influenced Savings Programs

100. Public Service seeks specific Commission endorsement of the Company's plans to begin implementing behavioral change programs and to take credit for measurable savings from these programs. The Company generally defines behavioral change programs as those that provide energy usage information to customers with the intent to motivate them to use less energy. Public Service explains that the implementation of behavioral change programs was contemplated in the energy savings goals the Company proposes the Commission adopt in this Docket.

101. In pre-filed rebuttal testimony, Public Service witness Debra Sundin explained that DSMCA-funded spending may be required each year under a behavioral change program to maintain the levels of energy savings over time. As a consequence, some portion of the spending in subsequent years will not yield incremental savings, but is instead required for maintaining the energy savings achieved previously. She then questioned whether the Commission will consider it appropriate for Public Service to count annual energy savings from such behavioral change efforts towards each year's goals and explained that this uncertainty prevents the Company from committing to significant levels of savings from behavioral change programs for purposes of setting energy savings goals.

102. Similarly, Ms. Sundin stated at hearing that persistence of savings from behavioral change is an important question and one the utility industry is now studying.

Ms. Sundin further agreed that whether or not a behavioral change program is cost effective depends on whether savings persist and that one purpose of the behavioral change pilot program the Company intends to launch in Colorado in 2011 is to answer questions regarding the levels of savings achieved over time.

103. The GEO supports the Company's proposal to increase its market transformation offerings, including behavioral change programs. In contrast, CF&I/Climax object to what they call a "before-the-fact" approval of a program concept in the absence of any specific proposal for express approval. They thus suggest that given the lack of information in this Docket, the Commission should refrain from offering any general endorsement of such programs.

104. We decline to endorse in this Docket the Company's plans to implement a full-scale behavioral change program in the future. We concur with Public Service that significant questions concerning the persistence of savings over time and the required expenditures to maintain savings at claimed levels need to be answered before conclusions regarding the overall cost effectiveness of behavioral change activities can be drawn. We also do not expect the residential behavioral change pilot program that the Company intends to launch this year will provide answers to these questions in time to inform the Company's 2012-2013 DSM plan filing. Therefore, we direct Public Service to file an application seeking Commission approval of a full-scale behavioral change program if the Company seeks to begin implementing such a program before 2014.

3. Electric Utility Infrastructure Program

105. Public Service explains that a non-traditional program in which the Company improves the energy efficiency of its own facilities could potentially yield significant measurable savings. Public Service is not seeking approval of such an Electric Utility Infrastructure (EUI)

program as part of this Docket. In Ms. Sundin's Direct Testimony, however, the Company describes potential components of an EUI program and offers that Public Service will pursue more analysis to help define the structure and estimates of the energy efficiency savings opportunities they present once it knows that the Commission has an interest in these programs. In any event, the Company would expect to be able to count energy savings from EUI investments against its DSM goals.

106. Staff argues that EUI programs, by virtue of being implemented on the "supply side of the system" should not be considered DSM. Staff contends that "supply side" investments run counter to the statutory language in § 40-3.2-104, C.R.S.

107. CF&I/Climax additionally question the suitability of information on this matter in this Docket and dislike the "before-the-fact" approval of a program concept in the absence of any specific proposal for express approval. CEC is further concerned that savings from EUI measures would be used as a means to exceed the goals established by the Commission, thereby creating a potential incentive payment for the Company's own investments in energy efficiency. CEC thus recommends that the Commission reject EUI as theoretically flawed and inequitable.

108. We will not endorse EUI programs based on the record in this proceeding. Should Public Service wish to implement an EUI program in the future with our approval, the Company shall be required to file an application separate from any DSM plan to make the case for such activities. While we find that in theory EUI programs could create system efficiencies that benefit ratepayers and the Company, there are many outstanding questions regarding why the Company does not have sufficient desire and means to pursue these efficiency improvements outside of the DSM rubric. We are prepared, however, to determine that financial incentive

mechanisms such as those extended to Public Service for its electric and gas DSM accomplishments are not appropriate for an EUI program.

4. Optional Self-Direction Program

109. CEC proposes an Optional Self-Direction Program for qualifying commercial and industrial customers who commit to independently meet electric energy savings goals, on a growth-adjusted basis, commensurate with Public Service's system-wide goals. The program, modeled after the Self-Direct Program approved by the Michigan Public Service Commission, would be available to customers with an aggregated peak load of at least 2 MW in any given month and an aggregated annual energy use of at least 10 million kWh. In exchange for committing to reducing electricity usage, participating customers would be exempt from paying the electric DSMCA, with the exception of contributions for funding the low-income programs. CEC argues that DSMCA-funded programs represent an inefficient diversion of resources in that customers must first pay and then hope to get certain projects funded.

110. CEC explains that Public Service is routinely trusted to assess its own DSM achievements, and therefore the Commission need not be concerned with measurement and verification of savings associated with self-direction, because, in the instance of the DSMCA opt-out participants, there is no concern that rates or incentives will rise based on inaccurate projections. CEC further argues that participants could not manipulate usage information because it is already in the Company's possession.

111. In response to CEC's proposed program, Public Service raises familiar equity concerns. Public Service further asserts that an optional self-direction program has already been included in the Company's DSM portfolio since 2009, and thus the CEC's proposed program is not needed. Further, Public Service raises concerns about the oversight and verification of

self-directed projects completed outside of a utility-administered DSM program, suggesting that these functions would still be required of any customers “opting out.” Public Service also points out that CEC’s program would not eliminate various other administrative costs that would continue to be incurred by the Company.

112. SWEEP also opposes CEC’s proposed self-direction program, echoing fairness concerns when residential and small business customers must continue pay the DSMCA even if they too reduce their electricity usage by the similar percentages. SWEEP additionally asserts that large customers do not get to opt out of paying for supply-side resources, and therefore should not have the option to opt out of paying for demand-side resources. Finally, it will be difficult, according to SWEEP, to determine if large customers would qualify for the exemption of paying the full DSCMA charge due to the complexity in determining whether a reduction in usage was accomplished by energy efficiency improvements or instead by other factors.

113. We note that the same concept of an opt-out program was raised in Docket No. 07A-420E. In that proceeding, Wal-Mart proposed an opt-out program for customers who actively pursued or recently pursued energy efficiency or DSM measures at levels that correspond with quantified goals as determined by the Commission and in accordance with legislatively mandated reductions. We stated in Decision No. C08-0560, however, that such an option created an unacceptable disparity in the distribution of DSM costs and benefits throughout the utility system, and we therefore excluded any such opt-out program from Public Service’s DSM plans. Decision No. C08-0560, at 49-50.

114. We find that the opt-out provision being proposed by CEC is not significantly different than the proposition advanced by Wal-Mart in Docket No. 07A-420E. Furthermore, it is difficult to see a different conclusion being reached here, given the relatively similar

circumstances. We therefore reject CEC's proposal of an optional self-direct program due to the unacceptable disparity in the distribution of DSM costs and benefits, consistent with Decision No. C08-0560.

115. We are further concerned that there is no guarantee that customers participating in an optional self-direction program, as proposed by CEC, would undertake cost-effective measures, since those measures would not be held to the same modified TRC test standard. Moreover, without an effective way to conduct oversight and verification, we cannot know whether participants would in fact be reaching their goals. Likewise, no proceeding would exist where claimed savings could be analyzed or challenged, leaving the possibility that savings could be manipulated in order to avoid paying the DSMCA or a penalty.

5. Solar Thermal Program

116. CoSEIA suggests that Public Service include a solar thermal (solar hot water) program in its DSM portfolio. CoSEIA is concerned that some of the Company's assumptions for evaluating solar thermal technologies are inaccurate and may be based on out-of-date information. CoSEIA thus recommends certain updates to the inputs to the modified TRC test for solar thermal measures to test their cost-effectiveness.

117. In response, Public Service explains that even after applying technical assumptions suggested by CoSEIA, solar hot water for residential customers is not cost effective as an electric or gas DSM measure. CoSEIA suggests, in light of the Company's rebuttal, that the Commission consider other economic benefits of solar thermal beyond what is quantified in the modified TRC test (*e.g.*, the level of savings from one solar thermal application versus hundreds of CFLs). CoSEIA also suggests specific solar thermal projects be considered for

particular regions served by the Company due to variations in sunshine (*e.g.*, the San Luis Valley is sunnier than Denver).

118. We will not order Public Service to include solar thermal programs in its 2012-2013 DSM Plan. We expect that Public Service will continue to monitor solar thermal technologies and their associated avoided costs such that should solar thermal programs or measures become cost-effective in the future, such programs and measures could be added to the Company's DSM portfolio, at Public Service's discretion.

6. The GEO's Proposed Programs

119. The GEO similarly requests that Public Service offer a number of other new programs beginning with its 2012-2013 DSM Plan. For instance, the GEO wants the Company to begin offering a program in which streetlights are converted to LED facilities. The GEO also wants Public Service to offer a voluntary program whereby customers pay bills that are rounded up to the nearest dollar, with the difference between the amount due and the amount collected used to fund low-income weatherization programs. The GEO further wants Public Service to offer a program whereby customers pay back loans from the Company that are used to finance the implementation of efficiency measures.

120. In response to the GEO's suggested on-bill financing program, SWEEP recommends that Public Service be directed to propose a broader energy efficiency financing program that might entail a partnership with a financial institution rather than on-bill financing.

121. We decline, based on the record in this proceeding, to order Public Service to include any of these programs in its 2012-2013 DSM Plan. We instead encourage the Company to consider these program suggestions as it develops its proposed DSM program portfolios.

To the extent the Company decides to pursue any of these program concepts, we will consider them in the context of future DSM Plan filings.

K. Other Matters

1. Claims on Influenced Savings from Custom Projects

122. Public Service proposes to claim energy and demand savings from certain cost-effective projects for which the customer did not receive rebates from the Company, but the Company nonetheless had substantial influence over the project's completion through its Custom Efficiency Program. Public Service explains that the Commission should consider not just whether the purchase of the equipment was rebated but whether all of the Company's activities and efforts substantially influenced individual customers, or the market as a whole, to accomplish cost-effective savings.

123. Staff objects to Public Service taking credit for savings associated measures that did not meet the Company's own policies for approving rebates. Staff therefore recommends that Public Service simply re-evaluate its internal approval policies to modify them, if necessary. Wal-Mart similarly rejects the Company's proposal, adding that it would be difficult to meet a standard of proof associated with the degree of influence that is presently not defined. Along these same lines, CEC states there is no policy basis for allowing the Company to claim savings for projects that are funded entirely by the customer. The GEO likewise raises concerns that measurement and verification for influenced savings has not been clearly defined.

124. SWEEP, however, supports the Company's claims for influenced savings from certain custom projects, in part because SWEEP advocates that the Commission adopt much higher savings goals that the Company has proposed. SWEEP further suggests that verification

of the Company's influence over the completion of a project could be accomplished with a signed statement from the owner of the project that it would not have gone forward but for the influence of the Company.

125. We conclude that it is very difficult both to measure influenced savings and to differentiate it from free-ridership.²² We are also generally uncomfortable with an outcome where the Company would claim savings without contributing financially to the project. No measurement criteria were advanced, either through testimony or in hearing, for what constitutes influenced savings. Furthermore, Public Service admitted that the total combined savings are extremely small, having an average annual contribution of 1 GWh.

126. We therefore deny Public Service's request in this Docket to be allowed to claim energy and demand savings from custom projects for which the Company did not provide financial assistance. However, we would be open to a new proposal to claim influenced savings from projects completed in custom programs if presented in the Company's 2012-2013 DSM Plan. Before any such savings could be claimed, however, Public Service must present specific criteria for the measurement and verification of the savings so that the parties can evaluate these criteria in that future docket.

2. Disparate Building Codes

127. Boulder explains that because the city has a more stringent building code for new construction and existing buildings in terms of energy performance, the Company's customers in

²² Free-riders are generally defined as DSM program participants who receive financial assistance from the utility to complete energy efficiency measures and projects when they would likely have undertaken those same measures and projects anyway, without the financial assistance. Free ridership therefore relates to naturally occurring efficiency as discussed in the Company's 2009 DSM Market Potential Study.

Boulder have limited access to Public Service’s DSM programs. In other words, it is more difficult for Boulder customers to design structures that are 15 percent more energy efficient than required by the local code. Boulder supports statewide standards for energy efficiency as the best solution to this problem; but until statewide standards are set, Boulder suggests that Public Service’s DSM program should be structured so that local governments are not discouraged from passing more stringent energy efficiency standards. As one option, Boulder recommends a uniform baseline that the Company applies throughout its entire service territory (regardless of local codes). Alternatively, Boulder recommends that the Company implement different “above-code” standards for cities with the more stringent energy requirements.

128. In response, Public Service states that it is willing to support a common baseline code (*i.e.*, an assumed uniform code for the Company’s system that is below Boulder’s actual code) so long as there is no free-ridership penalty applied against the Company.

129. Although we understand that other cities might hesitate adopting more stringent building codes like Boulder’s if such codes might prevent Public Service’s customers from being eligible for some of the rebates offered under the Company’s DSM programs, we are not convinced that the appropriate solution to this potential problem entails uniform code assumptions or different schedules of rebates based on disparate codes. We will therefore not direct Public Service to adopt at this time either of the suggestions put forward by Boulder. We will instead consider, without prejudice, new proposals in the future that are intended to address barriers to the adoption of more energy efficient codes and to address free-ridership in the context of meeting and exceeding relatively stringent codes and ordinances.

3. Data Sharing

130. Boulder also wants Public Service to provide reports summarizing participation in and results from individual DSM programs broken down by zip code or census tract. Boulder further requests that the Commission permit Public Service to provide aggregated historic utility data to governments while protecting customer information.

131. We will not, based on the record in this proceeding, order Public Service to provide DSM-related reports or data to Boulder or any other governmental agencies as suggested by Boulder. We will instead encourage Public Service to work with Boulder in order to determine whether information on DSM program participation and results can be appropriately provided to the city, without compromising customer privacy, at either no cost or at a cost that Boulder is willing to cover. We direct Public Service to report back to the Commission in this Docket on the results of these efforts within six months of the effective date of this Order.

4. Non-Energy Benefits

132. In Docket No. 07A-420E, we adopted a percentage adder to the measurable benefits associated with DSM projects in order to satisfy the requirement under § 40-1-102(5), C.R.S., that the Commission consider non-energy benefits when determining the cost-effectiveness of DSM. We thus approved specific adders of 10 percent for non-low-income electric programs, with separate consideration of avoided emissions costs and avoided customer operation and maintenance costs. Decision No. C08-0560, at 26-27. We also determined that higher adders are appropriate for screening low-income programs and adopted a 20 percent adder for electric DSM programs targeted to low-income customers. Decision No. C08-0560, at 43.

133. Public Service now proposes to increase the low-income non-energy benefits adder to 25 percent for both electric and gas DSM based on the results from a study

it commissioned pursuant to Decision No. C08-0560. According to Public Service, an increase in the non-energy benefit adder for low-income programs to 25 percent acknowledges the continuing difficulty in quantifying the non-energy benefits.

134. SWEEP supports the increase of non-energy benefit adders for electric and gas to 25 percent, although, according to SWEEP, this level is still too conservative, particularly for certain programs. SWEEP also urges the Commission to direct Public Service to undertake a more general study of non-energy benefits particular to Colorado for all types of programs (not just low-income programs) with specific consideration of adders for certain types of programs.

135. No party opposed the proposed increase in the non-energy benefit adders for low-income programs; however, Staff and CF&I/Climax both discussed the potential impacts from the proposed change.

136. Given the absence of opposition to the Company's proposal to increase the non-energy benefit adder to 25 percent for low-income programs, we grant Public Service's request for the purpose of program screening for cost-effectiveness. Consistent with Decision No. C08-0560, the inclusion of non-energy benefits shall not be allowed when determining net economic benefits for the purpose of determining financial incentives. Decision No. C08-0560, at 26. However, in cases where the net economic benefits associated with a low-income program is negative without the consideration of the non-energy benefits, the costs and benefits of this program shall be excluded from the calculation of overall net economic benefits. Decision No. C08-0560, at 44.

5. All Other Requests

137. The Commission denies all requests made in this Docket by the Company or the parties that have not been addressed in this Order.

II. ORDER

A. The Commission Orders That:

1. The Verified Application for Approval of a Number of Strategic Issues Relating to Its DSM Plan, Including Long-Term Electric Energy Savings Goals and Incentives filed by Public Service Company of Colorado (Public Service or the Company) on August 10, 2010 is approved with modifications, consistent with the discussion above.

2. Public Service shall submit an electric demand side management (DSM) plan for 2012-2013 on or before July 1, 2011, consistent with the discussion above. Public Service shall also submit a gas DSM plan for either 2012 or for 2012 and 2013, and, as part of that filing, propose gas savings goals for each year included in the plan, consistent with discussion above.

3. Public Service shall propose specific demand reduction goals for 2012 and 2013 as part of its 2012-2013 DSM Plan filing. At a minimum, these goals should account for expected demand reductions from the Company's energy efficiency and conservation programs in its DSM portfolio, as well as demand reductions from its Interruptible Service Option Credit program, its third-party demand response program, and its residential Saver's Switch program, consistent with the discussion above.

4. Public Service shall identify in its 2012-2013 DSM Plan the specific programs that will be open to competitive bidding for implementation and to set forth in that filing the specific criteria under which it will evaluate such bids. Public Service shall also quantify and track any additional costs it incurs in the use of third-party DSM providers, consistent with the discussion above.

5. Public Service shall continue to include market transformation programs and activities in its DSM plans, consistent with the discussion above. In the event that Public Service

seeks to implement a market transformation program for which it will claim savings, the Company must detail in the DSM plan filing how the measurement and verification of such savings will be accomplished.

6. Public Service shall file a new application to address the market potential for demand reductions from load management, demand response, and interruptible services within 12 months of the effective date of this Order, in order for the Commission to establish peak demand reduction goals under § 40-3.2-104(2), C.R.S., consistent with the discussion above.

7. Public Service shall file an application opening a DSM strategic issues proceeding to examine potential adjustments to the Company's savings goals and commensurate changes to its DSM financial incentive mechanism on or before September 1, 2014, consistent with the discussion above.

8. Public Service shall file a report in this Docket, within six months of the effective date of this Order, describing whether information on DSM program participation and results specifically related to customers in the City of Boulder (Boulder) can be appropriately provided to Boulder, without compromising customer privacy, at either no cost or at a cost that Boulder is willing to cover.

9. Public Service shall submit a compliance advice letter filing for its electric Demand-Side Management Cost Adjustment rate rider within 90 days of the effective date of this Order, but on not less than 10 days' notice, to reflect the Commission's modifications to Public Service's proposed financial incentive mechanism, consistent with the discussion above.

10. The Motion to Withdraw Intervention filed by Black Hills/Colorado Electric Utility Company, LP, and Black Hills/Colorado Gas Utility Company, LP, on March 4, 2011 is granted.

11. The Motion for Extension of Time to File Statement of Position filed by the City of Boulder on March 14, 2011 is granted.

12. The Motion for Extension of Time to File Statement of Position filed by the Colorado Governor's Energy Office March 14, 2011 is granted.

13. The Motion for Extension of Time to File Statement of Position filed by the Colorado Solar Energy Industry Association on March 15, 2011 is granted.

14. The Joint Motion to Approve Settlement Agreement filed by Public Service and the Energy Efficiency Business Coalition on February 28, 2011 is denied, consistent with the discussion above.

15. The 20-day period provided for in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration, begins on the first day following the effective date of this Order.

16. This Order is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
March 30, 2011.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JAMES K. TARPEY

MATT BAKER

Commissioners

CHAIRMAN RONALD J. BINZ VOTED
TO ADOPT THIS ORDER BUT
RESIGNED EFFECTIVE APRIL 8, 2011